

# The Flinn Report

Illinois

# Regulation

Claire B. Eberle, Editor

700 Stratton Bldg., Springfield IL 62706

**Joint Committee on Administrative Rules**

Illinois General Assembly

217/785-2254

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*Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.*

## New Regulations

### INCOME TAXES

The DEPARTMENT OF REVENUE adopted amendments for "Income Tax" (86 Ill Adm Code 100), effective 1/28/05, to explain the employee child care assistance program income tax credit that a corporate taxpayer may be eligible to receive. A credit equal to 30% of start-up costs expended by a corporate taxpayer to provide a child care facility for its employees' children is allowed for tax years 2000 through 2004. A 5% credit for child care facility annual expenses is allowed for all years ending on or after 12/31/00 and is exempt from statutory sunset provisions. Neither Subchapter S corporations nor their shareholders are allowed to claim this credit. The rulemaking also implements Public Act 93-840, which creates the Voluntary Compliance Program for taxpayers who underpaid or underreported Illinois tax liabilities for taxable years prior to 1/1/04 through participation in tax shelters. The program provides penalty abatement through filing of required forms and payment of the taxpayer's eligible liability plus interest. Participation in the program is indicated separately for each taxable year, and the program runs from 10/15/04 to 1/31/05.

This tax shelter provision was originally adopted through emergency amendments that became effective 10/18/04. Those affected by this rulemaking include taxable corporations that provide child care facilities for their employees' children either independently or jointly in partnership with one or more other corporations and also small businesses that participated in a tax shelter.

Questions/requests for copies: Paul Caselton, DOR, Legal Services Office, 101 W. Jefferson, Springfield IL 62794, 217/782-7055.

### STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments for rules titled "Solicitation for Charitable Payroll Deductions" (80 Ill Adm Code 2650), effective 2/1/05, to revise provisions relating to the State and University Employees Combined Appeal (SECA), which is the annual drive requesting employees and retirees to donate to "qualified charitable organizations". Qualified charitable organizations are those that are recognized by the State Comptroller as eligible to receive payroll deductions. The amendments specify

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## Proposed Regulations

### COLLEGE SCHOLARSHIPS

The ILLINOIS STUDENT ASSISTANCE COMMISSION proposed amendments for the following 10 Parts: "General Provisions" (23 Ill Adm Code 2700), "Federal Family Education Loan Program (FFELP)" (23 Ill Adm Code 2720), "Illinois National Guard (ING) Grant Program" (23 Ill Adm Code 2730), "Illinois Veteran Grant (IVG) Program" (23 Ill Adm Code 2733), "Monetary Award Program (MAP)" (23 Ill Adm Code 2735), "State Scholar Program" (23 Ill Adm Code 2760), "Minority Teachers of Illinois (MTI) Scholarship Program" (23 Ill Adm Code 2763), "Illinois Special Education Teacher Tuition Waiver (SETTW) Program" (23 Ill Adm Code 2765), "College Savings Bond Bonus Incentive Grant (BIG) Program" (23 Ill Adm Code 2771), and "Illinois Prepaid Tuition Program" (23 Ill Adm Code 2775). The Part 2700 amendments strike the requirement that Monetary Award Program (MAP) grants for a summer term or for students attending less than half-time be considered separately from other possible grant awards. Additional changes clarify the name of the North Central Assoc. of Colleges and Schools Higher Learning Commission, state that an e-mailed application is considered "postmarked" on the date ISAC receives it, and strikes the prohibition against considering prepaid tuition benefits under the "College Illinois!" program and contributions to the College Savings Pool when deter-

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**NEW REGULATIONS:** Rules adopted by agencies this week.

**PROPOSED REGULATIONS:** Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

**QUESTIONS/COMMENTS/RULE TEXT:** Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

# New Regulations

that the SECA advisory board may search for a 3<sup>rd</sup> party manager of the SECA program, establish that person's duties, and seek the participating charities' approval. The rulemaking also provides that all new employees will be given SECA materials upon hire, clarifies when an employee may do SECA work, and adds required minimum charity participation levels in advisory board meetings and SECA events to the Code of Campaign Conduct. The rulemaking additionally specifies that if conduct code violations are not remedied after 3 reminders and within a certain time period, an organization may be denied participation in the next campaign. The previous provision that allowed the qualified charitable organizations to determine how SECA expenses are allocated among themselves is replaced with a DCMS option to prorate SECA expenses based on contributions from the prior campaign year. Also, each organization is allotted 60 days after receiving its assessment to submit payment. Not-for-profit corporations participating in the SECA program will be affected by these amendments.

Questions/requests for copies: Gina Wilson 720, DCMS, 720 Stratton Bldg., Springfield IL 62706, 217/785-1793.

## EARLY INTERVENTION

The DEPARTMENT OF HUMAN SERVICES adopted amendments for "Early Intervention Program" (89 Ill Adm Code 500), effective 1/31/05, to correct the Bureau of Early Intervention's Springfield address to 222 S. College (zip code 62704-1958).

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. E., 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

## NATURAL RESOURCES

The DEPARTMENT OF NATURAL RESOURCES adopted amendments for "Public Use of State Parks and Other Properties of the Department of Natural Resources" (17 Ill Adm Code

110), effective 1/28/05, to provide that search and rescue dog training on DNR properties is allowed with an activity permit, domesticated animals brought onto DNR land must comply with all health requirements, and hikers on equestrian trails must yield to equines. In other new provisions regarding domesticated animals, equestrians at equestrian campgrounds must deposit their animals' waste in a designated collection area, a temporary corral may not be built or used without the site superintendent's permission, and neither equines nor canines may be tethered to trees. If tie lines between trees are used, animals must not be allowed to reach or damage either tree. Prairie Lake in the Jim Edgar Panther Creek State Fish and Wildlife Area is added to the list of lakes between 60-500 acres in size where boat motors of any size are allowed. The amendments specify that it is unlawful to remain on any Department lake after posted closing time; leave shotgun shells on the ground; alter or construct any natural or man-made property, including trails; be on a trail that is closed to visitors; or for a bicyclist to travel the wrong way on a posted one-way trail. The rulemaking further specifies that all designated swimming beaches must conform to the applicable rules of the Department of Public Health. A change since 1<sup>st</sup> Notice removes the proposed prohibition against feeding waterfowl or wildlife on State-owned, State-leased, or State-managed sites from the text of this rulemaking.

In addition, the Department adopted amendments for rules titled "Injurious Species" (17 Ill Adm Code 805), effective 5/1/05, to add silver and bighead carp (2 types of Asian carp) to the list of injurious species that are considered harmful or potentially harmful to Illinois native wildlife, aquatic life, or the habitat. The Part is also amended to allow persons engaged in lawful interstate transport for lawful commercial purposes to possess and transport any listed injurious species across Illinois without a DNR-issued permit if they do not buy, sell, barter, trade,

transfer, or loan any such species, or offer to do so, while in the State. While in Illinois, interstate transporters may not transfer any injurious species from one container to another, nor may they exchange or discharge water, bedding, or any soluble or insoluble material from a container of injurious species without first obtaining written permission from the Department. Commercial fishermen, live fish haulers, and live fish markets that are offering live Asian carp for sale are affected by this rulemaking.

Questions/requests for copies of the 2 DNR rulemakings above: Jack Price, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

## WATER POLLUTION

The POLLUTION CONTROL BOARD adopted amendments for "Primary Drinking Water Standards" (35 Ill Adm Code 611), effective 1/28/05, to correspond to federal Safe Drinking Water Act regulations adopted during the first 6 months of 2004 and also a related federal action on 8/25/04. One new analytical method of testing drinking water for total coliforms and E. coli and 3 new methods of testing for uranium are added. According to PCB, several additional changes in the incorporated federal regulations correct cross-references, remove obsolete references, correct a list of facilities receiving public education brochures, clarify best available technology for cyanide removal, and specify compliance with maximum residual disinfectant levels. In addition, a detection limit is specified for measuring uranium, the compliance date for the long-term 1 enhanced surface water treatment rule is changed from 1/14/05 to 1/1/05, and states are allowed to use a different data set under certain conditions when determining whether a disinfection profile is needed for a community water supply. A change since 1<sup>st</sup> Notice concerns monitoring of turbidity levels. Specific standards for self-assessment of filter performance by a water sup-

# New Regulations

plier were stricken in the proposed text but have been reinstated in the adopted rulemaking text. Small businesses, small municipalities, and not-for-profit corporations that own or operate a public water supply may be affected by this rulemaking.

Questions/requests for copies: Michael McCambridge, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-6924, E-mail: mccambm@ipcb.state.il.us. Please reference docket R05-6.

ances asserted by individuals who feel they are discriminated against in programs, services, or activities offered by ISAC. Procedures and time frames for submitting written complaint forms, definitions, possible Commission actions, and an assurance of "case-by-case" resolution are covered in the rulemaking.

## CRIMINAL SURVEILLANCE

The DEPARTMENT OF STATE POLICE adopted amendments for "Certification and Training of Electronic Criminal Surveillance Officers" (20 Ill Adm Code 1295), effective 1/31/05, to implement Public Act 92-863 by adding retired federal, state, or local law enforcement officers to the list of those persons who may be certified by DSP to intercept private oral communications. The rulemaking also increases the electronic criminal surveillance officer I certification period from 3 years to 5 years. A change since 1<sup>st</sup> Notice clarifies that a retired law enforcement officer may be eligible for an electronic criminal surveillance officer I position but is not eligible for certification at level II or III. Small businesses, small municipalities, and not-for-profit corporations that hire retired law enforcement officers to conduct electronic surveillance will be affected by this rulemaking.

Questions/requests for copies: Keith Jensen, DSP, 124 E. Adams St., Rm. 102, Springfield IL 62794-9461, 217/782-7658.

## DISABLED AMERICANS

The ILLINOIS STUDENT ASSISTANCE COMMISSION adopted a new Part titled "Americans with Disabilities Act Grievance Procedure" (4 Ill Adm Code 1400), effective 2/1/05, to establish a methodology, pursuant to the federal Americans with Disabilities Act of 1990, for resolving griev-

## COLLEGE GRANTS

ISAC also adopted amendments for "Illinois Veteran Grant (IVG) Program" (23 Ill Adm Code 2733), effective 2/1/05. Companion emergency amendments became effective 9/15/04. The rulemaking broadens eligibility for this grant program that covers tuition and certain fees by including (1) Illinois National Guard members and (2) members of the Reserves who have not yet completed their initial enlistment contract. Both Guard members and reservists must have served at least one year of federal active duty or served in a foreign country in a time of hostilities and also must meet this Part's Illinois residency requirements to be eligible. One need not be separated from the armed forces to be eligible for a grant. Illinois state universities and community colleges may be affected by this rulemaking.

Questions/requests for copies of the 2 ISAC rulemakings above: Thomas A. Breyer, ISAC, 1755 Lake Cook Rd., Deerfield IL 60015, 847/948-8500, E-mail: tbreyer@isac.org

## MEAT & POULTRY

The DEPARTMENT OF AGRICULTURE adopted peremptory amendments for rules titled "Meat and Poultry Inspection Act" (8 Ill Adm Code 125), effective 2/1/05, to comply with federal Food Safety and Inspection Service (FSIS) regulations. The FSIS is establishing 1/1/08 as the uniform compliance date for any new federal food labeling regulations that are issued during 2005 and 2006. Small businesses, small municipalities, and not-for-profit corporations that own or operate meat or poultry production

facilities may be affected by this rulemaking.

Questions/requests for copies: Linda Rhodes, DOA, State Fairgrounds, Springfield IL 62794-9281, 217/785-5713, Fax 217/785-4505.

## DRIVER'S LICENSES

The SECRETARY OF STATE adopted an amendment for "Cancellation, Revocation or Suspension of Licenses or Permits" (92 Ill Adm Code 1040), effective 1/25/05, to implement Public Act 93-783. The rulemaking provides that any person who promises anything of value, payment, or personal advantage to influence any act related to obtaining a driver's license or permit to (1) an employee of the Secretary of State's office, (2) the owner or employee of any commercial driver training school, or (3) any other individual authorized to give driving instructions or administer a driver's license examination is disqualified from holding any class of driver's license or permit for 120 consecutive days. The amendment provides definitions, establishes bribery attempt reporting and evidence retention procedures, and specifies that accused persons are entitled to request an administrative hearing.

## HAZARDOUS MATERIAL

The SECRETARY OF STATE adopted emergency amendments for "Issuance of Licenses" (92 Ill Adm Code 1030), effective 1/31/05, for a maximum of 150 days. The rulemaking specifies that the holder of a commercial driver's license (CDL) may not be issued a hazardous material endorsement (HME) unless he or she is determined to be "no security threat" by the federal Transportation Security Administration (TSA). Also, effective 5/31/05, a driver who currently has a CDL and HME must be approved through TSA in order to have the HME renewed or transferred from another state to Illinois. The initial HME application process includes the TSA application, a \$34 fee, and fingerprint-based crimi-



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nal history record check. The applicant must also pass a written test administered by the Secretary of State on hazardous material transport. Additional regulations specify procedures that will be fol-

lowed if an applicant for an initial HME or a renewal is found to be a security threat by TSA and subsequently denied an HME. Those affected by this rulemaking include truck drivers who transport hazard-

ous materials.

Questions/requests for copies of the 2 SOS rulemakings above: JoAnn Wilson, SOS, 2701 S. Dirksen Pkwy., Springfield IL 62723, 217/785-1441.

## Proposed Regulations

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mining grant eligibility. Also, Parts 2771 and 2775 are amended to remove the same type of prohibition for any Illinois prepaid tuition contract, Bright Star savings accounts, College Illinois!, and college savings bond proceeds. The amendment to Part 2735 strikes the requirement that MAP grants for summer terms be considered separately from grants for fall and spring terms. Amendments for Parts 2763 and 2765 concern deferments of college grant repayments for teacher education programs. Part 2763 extends for up to 3 years the 10-year repayment period if the recipient is pursuing a graduate course of study full-time. Part 2765 extends the 5-year repayment period if the recipient withdraws from a course of study leading to teacher certification in special education but remains enrolled at least half-time (currently full-time) in another academic discipline. An amendment to Part 2760 reflects the name change for the SAT I test "verbal" score to the "critical reading" score and recalibrates the table comparing SAT I test scores to ACT test scores. A Part 2720 amendment specifies that the State Comptroller rather than ISAC will notify a borrower, and also handle any subsequent dispute procedure, when any payment from the State Treasury to the borrower is withheld in order to offset the borrower's unpaid debt to ISAC. A Part 2730 amendment broadens National Guard grant eligibility to include a person who ceases to be a member but who has been active for at least 5 years and has had his or her studies interrupted by being called up for at least 6 months of federal

active duty. Such a person will continue to be eligible for a grant for one year after discharge from the Illinois National Guard. Part 2733 amendments simplify the grant application paperwork for an applicant currently serving in the Armed Forces, strike use of an Illinois Veteran's Scholarship identification card for grant eligibility purposes, and specify that an institution of higher learning is responsible for verifying only the grant recipient's grade point average when submitting a payment request to ISAC. Those affected by these amendments include colleges and universities that enroll students who use ISAC grants to defray or cover their education expenses.

Questions/requests for copies/comments until 3/30/05: Thomas A. Breyer at the ISAC address and telephone number above.

### INSURANCE FORMS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments for "Construction and Filing of Accident and Health Insurance Policy Forms" (50 Ill Adm Code 2001) to add new provisions applying to both individual and group accident and health insurance policies and group accident and health certificates. The rulemaking prohibits any health insurance carrier from including in any policy, contract, certificate, endorsement, rider, application, or agreement a provision giving the company sole discretion to interpret any such policy offered or issued in Illinois.

Questions/requests for copies/comments until 3/30/05: Denise Hamilton (217/785-8560) or James C. Rundblom (217/785-8559), DOI, 320 W. Washington, Springfield IL 62767-0001.

### STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments for "Pay Plan" (80 Ill Adm Code 310) to add a private secretary II position at the Department of Commerce and Economic Opportunity with an annual salary of \$60,000 to the list of positions with a special designated pay rate set by the Governor. The rulemaking also establishes minimum hourly special services and part-time daily rates at \$6.50/hr. and \$49/day to comply with the new minimum wage law, which became effective 1/1/05. The amendments also strike obsolete position titles, add teacher of beauty culture and trades tender titles to positions covered by prevailing rate rules, and add the historical exhibits designer title to those technical employees represented by the American Federation of State, County and Municipal Employees (AFSCME). Other revisions apply the fiscal year 2004 pay rate for out-of-State and foreign service employees to fiscal year 2005, ensure that titles contained in the AFSCME technical employees section reflect current class specification listings, and make small corrections to pay rates for boiler safety specialists (northern region from \$6534.81 to \$6535.44 and central region from \$5141.60 to \$5141.70). Also cor-

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rected is the pay rate for educators with a bachelor of arts degree who are subject to the maximum security retirement formula (\$4792 to \$4772, effective 1/1/05).

Questions/requests for copies/comments until 3/30/05: Dawn DeFraties, DCMS, 503 Stratton Bldg., Springfield IL 62706, 217/524-8773, Fax 217/558-4497.

## GAS PIPELINES

The ILLINOIS COMMERCE COMMISSION proposed an amendment for “Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities” (83 Ill Adm Code 590) to update an incorporation by reference to the most recent 2005 federal safety standards for natural gas pipelines. There were no substantive changes made to the standards. Small businesses that own, operate, or repair gas pipelines may be affected by this rulemaking.

Questions/requests for copies/comments until 3/30/05: Elizabeth Rolando, Chief Clerk, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434.

## VOCATIONAL REHABILITATION

The DEPARTMENT OF HUMAN SERVICES proposed amendments for “Assessment for Determining Eligibility and Rehabilitation Needs” (89 Ill Adm Code 553) to add a “very significant” disability as a category of disability that qualifies an individual for vocational rehabilitation (VR) services. Currently, criteria are set forth for only significant and most significant disabilities. The proposed categories are broken down by functional capacity limitations (mobility, self-care, self-direction, work skills, work tolerance, interpersonal skills, and communication). For an individual to be considered to have a most significant disability, he or she must be determined eligible

for federal disability benefits; be seriously limited in 3 or more functional capacities; and require 2 or more substantial VR services in addition to routine counseling, guidance, information, and referral services. A person with a very significant disability must be seriously limited in 2 functional capacities and require one or more substantial VR services in addition to the routine services listed above. A significant disability is one in which a person is limited in 2 or more functional capacities with the need for one or more substantial VR services, as well as the specified routine services. (According to DHS, this proposed definition for a significant disability is an error and should have been a one-functional-capacity limitation. The Department indicates that it will correct the error through the rulemaking process.)

Questions/requests for copies/comments until 3/30/05: Tracie Drew at the DHS address and telephone number above.

## DNR FIELD TRIALS

The DEPARTMENT OF NATURAL RESOURCES proposed amendments for “Field Trials on Department-Owned or Managed Sites” (17 Ill Adm Code 910) and “Field Trials on Non-Department Owned or Managed Lands” (17 Ill Adm Code 930). Field trials are a stylized form of hunting for sporting dogs that involves competition in which the primary purpose is to evaluate the dogs’ field performance. A Part 910 amendment adds beagle hounds, fox hounds, coon hounds, and squirrel dogs to the sporting dog as participants in field trials. Both rulemakings address permit application procedures, participants’ hunting license and habitat stamp requirements, banding requirements for captive-reared game birds, and health certificates for imported captive-reared game birds. An example of the application form for field trials is provided in both Parts. The rulemakings require resident dog handlers and

scouts to possess a valid Illinois hunting license and the relevant habitat stamp. Non-resident dog handlers and scouts must have a non-resident license and stamp, and those who have had hunting privileges suspended or revoked in another state or in Canada are ineligible to participate in Illinois field trials. All hand-reared game birds or mallard ducks that are shot at field trials must be banded on the same day they are taken before they are removed from the trial area with bands purchased in 100-band increments from the Department for 10¢ each. Health certificate requirements are specified. Part 910 amendments also expand the definition section; clarify the fee structure; double the applicable permit fees for participating in trials on DNR-owned or DNR-managed lands; and require that a field trial organization acquire a minimum of \$1 million liability insurance coverage for an event. Field trial participants are allowed to remain overnight at designated field trial headquarters or staging areas in recreational vehicles or horse trailers with living quarters. In addition, the rulemaking classifies field trial sites into Class A (a broad variety of trial types and frequent trials) and Class B (a variety of trial types, but fewer trials), lists the sites that fall under each category, and substantially revises the field trial scheduling procedures. The Part 930 rulemaking also clarifies requirements for furbearer (raccoon and fox) competitive events; adds the American Kennel Club to the list of organizations that may license raccoon hunts and fox hound field trials that receive DNR field trial permits; and provides an example of an application form for competitive coon hound events.

Questions/requests for copies/comments until 3/30/05: Jack Price at the DNR address and telephone number above.

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*Illinois General Assembly*

Illinois

# Regulation

Joint Committee on Administrative Rules  
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## Second Notices

The following rulemakings were moved to second notice this week by the agencies listed below, commencing the JCAR review period. The rulemakings will be considered at JCAR's 3/15/05 meeting in Springfield.

### DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

"Local Tourism and Convention Bureau Program" (14 Ill Adm Code 550) proposed 12/17/04 (28 Ill Reg 16026)

Repeal of "Local Tourism and Convention Bureau Program" (14 Ill Adm Code 550) proposed 12/17/04 (28 Ill Reg 16050)

### STATE BOARD OF EDUCATION

"Procurement by the State Board of Education" (44 Ill Adm Code 1100) proposed 11/5/04 (28 Ill Reg 14330)

### DEPARTMENT OF REVENUE

"Income Tax" (86 Ill Adm Code 100) proposed 12/10/04 (28 Ill Reg 15740)

### DEPARTMENT OF AGRICULTURE

"Meat and Poultry Inspection Act" (8 Ill Adm Code 125) proposed 12/17/04 (28 Ill Reg 15893)

### ILLINOIS RACING BOARD

"Medication" (11 Ill Adm Code 603) proposed 12/17/04 (28 Ill Reg 16196)